

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

NICOLE PAYNE

VS.

PROGRESSIVE FINANCIAL SERVICES,
INC.

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CIVIL ACTION NO. 4:12-CV-432-Y

**PLAINTIFF NICOLE PAYNE’S OPPOSED MOTION
TO STAY PROCEEDINGS FOR SIXTY DAYS.**

Plaintiff Nicole Payne (“Ms. Payne”), by and through her counsel of record, respectfully requests this Court to stay all proceedings in this civil action for a period of sixty (60) days.

1. In recent weeks Ms. Payne has—for reasons unknown—not responded to her counsel’s increasingly frequent communications and requests for her cooperation in preparing the presentation of her case. *See* Exhibit 1.
2. More specifically, Ms. Payne has, for reasons unknown, not responded to her counsel’s recent communications and requests for cooperation in resolving the instant discovery dispute without Court intervention (*see* Exhibit 1; Doc. #36) (Order Regarding Defendant’s Motion to Compel).
3. Until recently, Ms. Payne has been quite responsive to her counsel’s communications and requests for information. *See* Exhibit 1.
4. The record demonstrates Ms. Payne’s history of responsiveness and cooperation with her counsel, as well as her active participation in the prosecution of her claims (*See* Doc. #24-2) (October 22, 2012, Declaration of Nicole Payne).
5. Ms. Payne’s recent unresponsiveness is inconsistent with her history of active involvement and participation.

6. In light of her legitimate interests in the prosecution of her claims, Ms. Payne's recent but unexplained unresponsiveness raises concerns about her health and well being. *See Exhibit 1.*
7. Good cause appears to exist for Ms. Payne's counsel to withdraw immediately, in that Ms. Payne has not substantially fulfilled her obligations to her counsel regarding her counsel's services; namely, by not communicating and cooperating with her counsel. *See Exhibit 1.*
8. At this stage however, immediate withdrawal may be imprudent in that Ms. Payne's claims have merit and the withdrawal of her counsel—before her whereabouts and well-being can be accounted for—may harm the administration of justice.
9. After careful consideration of the particular facts and circumstances of this case, in order to fully and effectively protect the legitimate interests that Ms. Payne has at stake in this litigation, and in order to serve her best interests, her counsel seeks to stay all proceedings for a period of sixty (60) days in order to re-establish communication with Ms. Payne or to determine the cause of her recent unresponsiveness to her counsel's communications.
10. If communications can be re-established, Ms. Payne's counsel believes that the instant discovery dispute will be resolved without the necessity of further Court intervention—allowing the prompt disposition of this action on the merits of Ms. Payne's claims.
11. If Ms. Payne's counsel is unable to re-establish communications before the expiration of the requested sixty (60) day stay, or learns that Ms. Payne wishes to abandon her claims, then Ms. Payne's counsel will respectfully request this Court's leave to withdraw for good cause shown.

WHEREFORE, by and through her counsel of record, Ms. Payne respectfully requests that all proceedings in this matter be stayed for a period of sixty (60) days.

Dated: March 20, 2013.

Respectfully submitted,

By: /s/ Noah D. Radbil

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Counsel of Record for Plaintiff NICOLE PAYNE

CERTIFICATE OF SERVICE

On March 20, 2013, I filed the foregoing document with the clerk of the U.S. District Court, Northern District of Texas, Fort Worth Division, using the Court's EM/ECF system. Delivery of the notice of electronic filing that is automatically generated by ECF constitutes service under Fed. R. Civ. P. 5(b)(2)(E) on Progressive Financial Services, Inc.'s attorney of record, who is a registered user of ECF.

By: s/Noah D. Radbil
Noah D. Radbil

CERTIFICATE OF CONFERENCE

On March 20, 2013, I conferred with counsel of record for Progressive Financial Services, Inc., regarding the relief sought by this motion. I certify that Progressive Financial Services, Inc., would not oppose the withdrawal of Ms. Payne's counsel, but does oppose the stay requested.

By: s/Noah D. Radbil
Noah D. Radbil